

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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ROBERT ROMANO,

Case No. 3:14-cv-00187-MMD-WGC

Petitioner,

ORDER

v.

LeGRANDE, et al.,

Respondents.

This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 by a Nevada state prisoner.

Petitioner filed a motion to proceed *in forma pauperis*. (Dkt. no. 3.) Because petitioner paid the filing fee in this action, the motion to proceed *in forma pauperis* is denied as moot.

Petitioner filed a motion for the appointment of counsel. (Dkt. no. 5.) Pursuant to 18 U.S.C. § 3006(a)(2)(B), the district court has discretion to appoint counsel when it determines that the “interests of justice” require representation. There is no constitutional right to appointed counsel for a federal habeas corpus proceeding. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir. 1993). The decision to appoint counsel is generally discretionary. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986), *cert. denied*, 481 U.S. 1023 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.), *cert. denied*, 469 U.S. 838 (1984). The petition on file in this action is well-written and sufficiently clear in presenting the issues that

1 petitioner wishes to bring. The issues in this case are not complex. Counsel is not
2 justified in this instance. The motion for appointment of counsel is denied.

3 The Court has reviewed the amended petition, and it shall be served on
4 respondents. Respondents shall file a response to the amended petition, as set forth at
5 the conclusion of this order. The Court also construes petitioner's motion for permission
6 to exceed page limits (dkt. no. 4) to apply to the amended petition.

7 It is therefore ordered that petitioner's motion to proceed *in forma pauperis* (dkt.
8 no. 3) is denied as moot.

9 It is further ordered that petitioner's motion for the appointment of counsel (dkt.
10 no. 5) is denied.

11 It is further ordered that petitioner's motion for permission to exceed page limits
12 (dkt. no. 4) is granted.

13 It is further ordered that the Clerk of Court shall file and electronically serve the
14 amended petition (dkt. no. 7) and memorandum of points and authorities in support of
15 the amended petition (dkt. nos. 7-1 & 7-2) upon the respondents.

16 It is further ordered that respondents shall have forty-five (45) days from entry of
17 this order within which to answer, or otherwise respond to, the amended petition. In their
18 answer or other response, respondents shall address all claims presented in the
19 amended petition. Respondents shall raise all potential affirmative defenses in the initial
20 responsive pleading, including lack of exhaustion and procedural default. Successive
21 motions to dismiss will not be entertained. If an answer is filed, respondents shall
22 comply with the requirements of Rule 5 of the Rules Governing Proceedings in the
23 United States District Courts under 28 U.S.C. §2254. If an answer is filed, petitioner
24 shall have forty-five (45) days from the date of service of the answer to file a reply.

25 It is further ordered that any state court record exhibits filed by respondents shall
26 be filed with a separate index of exhibits identifying the exhibits by number or letter. The
27 hard copy of all state court record exhibits shall be forwarded, for this case, to the staff
28 attorneys in the Reno Division of the Clerk of Court. The hard copy of all exhibits

1 submitted to the Court shall be tabbed and shall be bound along the top edge of the
2 pages.

3 It is further ordered that, henceforth, petitioner shall serve upon the Attorney
4 General of the State of Nevada a copy of every pleading, motion, or other document he
5 submits for consideration by the Court. Petitioner shall include with the original paper
6 submitted for filing a certificate stating the date that a true and correct copy of the
7 document was mailed to the Attorney General. The Court may disregard any paper that
8 does not include a certificate of service. After respondents appear in this action,
9 petitioner shall make such service upon the particular Deputy Attorney General
10 assigned to the case.

11 DATED THIS 20th day of October 2014.

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15 MIRANDA M. DU
16 UNITED STATES DISTRICT JUDGE
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